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FM AMEMBASSY BANGKOK
TO RUEHC/SECSTATE WASHDC IMMEDIATE 7093
INFO RUEAWJA/DEPT OF JUSTICE WASHDC IMMEDIATE

UNCLAS BANGKOK 001253

SIPDIS

STATE FOR L/DL
JUSTICE FOR OFL

E.O. 12958: N/A
TAGS: [KLIG](#) [TH](#)
SUBJECT: CRIMINAL COMPLAINT AGAINST DEA EMPLOYEES

¶1. (SBU) Pursuant to reftel, this will advise that Embassy Bangkok has received notice of legal proceedings in Thailand naming as defendants the following three employees from the U.S. Drug Enforcement Administration: Special Agent Derek S. Odney; Special Agent Scott Seeley-Hacker; and Special Agent Robert Zachariasiewicz.

Special Agents Odney and Seeley-Hacker are, and were at all relevant times, accredited to Post as A/T staff. Special Agent Zachariasiewicz is assigned to the DEA's Special Operations Division in Washington, D.C., and is not, and has never been, accredited to Post.

¶2. (SBU) The legal proceedings have been initiated by a criminal complaint filed by plaintiff Viktor Bout in Southern Bangkok Criminal Court, entitled Criminal Litigation Between Mr. Victor Analojevich Bout, Plaintiff, and Mr. Derek S. Odney, Defendant No. 1; Mr. Robert Zachariasiewicz, Defendant No. 2; and Mr. Scott Hacker, Defendant No. 3, Case No. 1050/2552. The Southern Bangkok Criminal Court is located at Rachini Road, Phra Nakorn, Bangkok.

¶3. (SBU) Bout's complaint alleges that the three DEA employees violated various provisions of Thai law in connection with the investigation and arrest of Bout on terrorism charges in Bangkok in March 2008. In particular, the complaint alleges that the DEA employees made false statements to the Thai authorities leading to his arrest; illegally installed recording devices in the hotel room where Bout was arrested; and forced Bout at gun point to surrender to the Thai authorities.

¶4. (SBU) The Embassy received notice of the legal proceedings directly from the Southern Bangkok Criminal Court via express mail on May 20, 2009, in three envelopes individually addressed to the three DEA employees. On May 19, the Embassy had also obtained a copy of the criminal complaint from a prosecutor from the Office of the Attorney General, who had been provided a copy by Bout's defense counsel during an extradition hearing that same day at the Thai Criminal Court.

¶5. (SBU) The mailing received from the Southern Bangkok Criminal Court on May 20 included the following: the criminal complaint and four attached exhibits; a notice of an optional "mediation session" scheduled to be held at the court's Dispute Mediation Center on June 30, 2009 at 1:30 p.m.; a summons to appear either personally or through a legal representative at a Preliminary Hearing on July 13, 2009 at 1:30 p.m.; and a List of Witnesses, which names Bout, his defense lawyer, an officer from the Royal Thai Police and a prosecutor from the Office of the Attorney General. The mediation notice states that the parties are "required to notify the Court of [their] mediation intention" by contacting staff of the Dispute Mediation Center by telephone or mail. These documents were in Thai and are in the process of being translated at Post.

¶6. (SBU) Bout is currently in custody at Bangkok Remand Prison in Bangkok for purposes of extradition to the U.S. to face trial for conspiring to sell weapons to the FARC for use in killing Americans in Colombia. The indictment pending against Bout in the U.S. District Court for the Southern District of New York charges him with four terrorism offenses: conspiracy to kill U.S. nationals;

conspiracy to kill U.S. officers or employees; conspiracy to acquire and use an anti-aircraft missile; and conspiracy to provide material support or resources to a designated foreign terrorist organization.

¶17. (SBU) The Royal Thai Police initially arrested Bout at the Sofitel Hotel in Bangkok on March 6, 2008 on Thai terrorism charges. On April 9, 2008, the Thai authorities dropped the Thai charges in favor of the U.S. prosecution and detained Bout on a provisional arrest warrant issued by the Thai Criminal Court in the extradition case. The U.S. formally submitted its extradition request to the Thai authorities on May 6, 2008.

¶18. (SBU) The DEA and Royal Thai Police closely coordinated Bout's investigation and arrest. Any and all investigative activities performed by DEA agents in Thailand in this matter, including those of the three agents Bout has sued, were performed in concert with, and with the knowledge and approval of, the Royal Thai Police.

¶19. (SBU) Thailand's Office of the Attorney General is prosecuting the extradition case against Bout on behalf of the United States. In October 2008, the Thai prosecutors completed their presentation of its extradition case, which included testimony from DEA Special Agent Zachariasiewicz, a Royal Thai Police officer, and officials from the Foreign and Interior Ministries. Special Agent Zachariasiewicz's testimony, among other things, described the close cooperation between the DEA and Thai authorities in the investigation and arrest of Bout. In over a dozen extradition hearings since that time, Bout's lawyers have sought to present evidence supporting his defense that the U.S. prosecution is politically motivated and that the extradition request violates the Extradition Treaty and Thai law.

¶10. (SBU) At an extradition hearing on May 19, 2009, the Thai Criminal Court ordered closing statements in the extradition case against Bout to be filed no later than June 30, 2009, and announced that a verdict in the matter would be delivered on August 11, 2009.

¶11. (SBU) Department of Justice Attach Christopher P. Sonderby has been involved in the Bout investigation and extradition since its inception and is knowledgeable about the facts relating to the attempted service of the criminal complaint and the facts of the case. Mr. Sonderby's contact information is as follows:

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¶12. (SBU) Post will not take any action regarding these legal proceedings unless and until it receives instructions to do so.
JOHN